

### **Remarks**

The Office Action mailed August 30, 2007, has been carefully considered.

In paragraph 3 of the office action the examiner rejected the claims because Example 6 lacks flame retardant. Example 6 has been canceled.

The examiner also pointed out that the amendment to page 10 states that the composition of Table 8 and Table 10 were used in Example 7. This is obviously a typographical error, and this text has been corrected in conformance with the specification as filed.

The claims were also rejected as failing to comply with the written description requirement, although the examiner only pointed to error in claim 43 in mentioning bedspread and furniture upholstery. Applicant has amended claim 43 to remove the word “bedspread,” understanding that bed spreads are encompassed within the word “bedding.” Also, furniture upholstery has been amended to say simply upholstery, in conformance with original claim 13. Thus, there is no new matter being claimed.

All of the claims were rejected as being directed to an invention that would have been obvious from the disclosure of Japanese reference 0717977 in view of White, et al. (“A comparison of Anti-microbials for the Textile Industry”) or the disclosure of US Patent 4,842,766 to Blehm, et al. The office action acknowledges that the Japanese reference does not teach use of anti-microbial finishes, but points to the White article and Blehm as disclosing anti-microbials, and saying that therefore it would have been obvious to add the anti-microbial.

At the top of page 9, the office action says that as a fire resistant polyester, TREVIRA CS<sup>TM</sup> would inherently pass the NFPA-701 test. As raw FR polyester, that may be true. However, when finishes are added to it, the properties change, and a heavy loading of the anti-microbial would deleteriously affect the FR properties of the TREVIRA CS<sup>TM</sup> so that it would not inherently pass the NFPA-701 test.

The addition of an anti-microbial finish to a fabric made of inherently FR polyester has the distinct possibility of disturbing the FR property, and therefore it would have not have been practiced by one of ordinary skill in the art. As applicant has repeatedly pointed out, the manufacturer of the inherent FR yarns was admonishing its yarn customers against adding finishes. Those skilled in the art would have been aware of those admonitions. The possible addition of the anti-microbial as suggested by the office action was made in the form of a *prima*

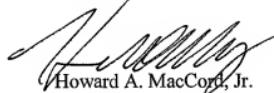
*prima facia* obviousness rejection. The specification's evidence that those working with inherently FR polyester yarns should not apply finishes rebuts the *prima facia* case.

The claims were also rejected as being directed to an invention that would have been obvious from the disclosure of European patent 505114 in view of the same White, et al. and Blehm, et al. references as the Japanese reference. Again, the European reference does not teach the use of an anti-microbial finish, and the examiner again relies on White and Blehm for such teaching. As with the rejections based upon the Japanese reference, it is believed these rejections are overcome and should be withdrawn.

Also, it is noted that the silane disclosed in the '766 Blehm patent is not the same silane claimed by applicant in claim 32, so that it is not an automatic that it would have been obvious to substitute one silane for the other.

The Applicant submits that by this amendment he has placed the case in condition for immediate allowance and such action is respectfully requested. However, if any issue remains unresolved, Applicant's attorney would welcome the opportunity for a telephone interview to expedite allowance and issue.

Respectfully submitted,



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Date: December 31, 2007  
File No.: 2250-13A

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